

REMARKS

This paper is filed responsive to the Office Action mailed December 17, 2003. Presently, the specification stands objected to and claim 15 stands rejected under 35 U.S.C. § 112, second paragraph. Claims 1 to 3 and 6 stand rejected under 35 U.S.C. § 102(b) over the Hatanaka EP 0 321 908 application. Claims 4, 5, 7 and 8 stand rejected under 35 U.S.C. § 103(a) over Hatanaka. Claims 9 to 14 and 17 to 20 stand rejected under 35 U.S.C. § 103(a) over Hatanaka in view of Nguyen et al. U.S. Patent No. 6,279,622. Applicants respectfully traverse the rejections and request reconsideration and reexamination of the application.

The Examiner has objected to the specification and rejected claim 15 under 35 U.S.C. § 112, second paragraph based upon the term "stabilizing compounds." Vaporizable sterilizing solutions, such as hydrogen peroxide, frequently tend to be unstable and may decompose during storage. This phenomenon is well known to those of skill in the art. For instance, a discussion of this phenomenon and several stabilizing compounds used to slow the decomposition, are disclosed in U.S. Patent No. 5,130,053, a copy of which is enclosed for the convenience of the Examiner. Accordingly, Applicants submit that one of skill in the art would recognize what is meant by the term stabilizing or "stabilizing compounds" as it appears in claim 15 and that thus claim 15 meets the requirements of 35 U.S.C. § 112, second paragraph and the specification does not require additional explanation or examples.

The Examiner has rejected claims 1 to 3 and 6 under 35 U.S.C. § 102(b) over Hatanaka. However, claim 1, and thus claims 2, 3 and 6 which depend therefrom, contains the limitation that a flow restriction is located between the circuitous path and the outlet. Hatanaka does not include a flow restriction between a circuitous path and the outlet. To the extent that Hatanaka includes a flow restriction at all, it is within the circuitous path, not between the circuitous path and the outlet. Accordingly, Hatanaka cannot anticipate claims 1 to 3 and 6. The rest of the claims have been rejected as obvious over Hatanaka either alone or in view of Nguyen et al. Applicants respectfully submit that these references fail to teach or suggest the claimed invention. The claimed invention provides a flow restriction after the circuitous path and before the outlet. This controls residence

time within the vaporizer to allow for a high degree of efficacy removing the nonvaporizable components in the liquid sterilant solution. The Examiner has asserted that the residence time within the vaporizer can be controlled and such control would be within the skill of one in the art. However, neither reference suggests even the desirability of controlling the residence time. Therefore, whether one could adjust the residence time or not to meet a particular requirement is irrelevant in assessing whether the present invention is obvious. Using the orifice or flow restriction to control the residence time dramatically improves the performance of the invention as shown in the detailed description in the application. Accordingly, Applicants respectfully submit that each of the remaining claims patentably defines over the asserted references.

As a final note, Applicants note that the form 1449 submitted with the Information Disclosure Statement mailed to the PTO on May 17, 2001 was not returned initialed by the Examiner. A copy of the form is submitted along with this response for the Examiner's convenience. If the Examiner requires copies of any of the references, please contact the undersigned attorney at the telephone number listed below.

Applicants submit that the application is presently in condition for allowance and request favorable reconsideration and early notice of allowance.

Respectfully submitted,

By: _____

Andrew C. Farmer
Reg. No. 35,868

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-2825
Dated: 3-17-04

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